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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,943	06/02/2000	Perry R. DeYoung	OLI02 P-350	6561

277 7590 03/26/2003

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EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/586,943

Applicant(s)
DeYoung

Examiner
Clark F. Dexter

Art Unit
3724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 20, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Oct 22, 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. The amendments filed October 21, 2002 and January 20, 2002 have been entered. It is noted that in view of the new amendment practice under 37 CFR 1.121 which became mandatory for all amendments on March 1, 2001, and due to the limited amount of examining time per application, if the amendment contains changes to existing language that requires a marked-up version showing those changes, the Examiner is relying upon the marked-up version(s) for examination of the application. It is applicant's responsibility to ensure that the clean version(s) is (are) the same as the marked-up version(s). It is further noted that the clean version(s) is (are) considered to be the Official version(s).

Election/Restriction

2. In response to the Decision on Petition (paper no. 13, mailed November 18, 2002), the restriction requirement has been withdrawn and all of the claims will be examined.

Drawings

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on October 22, 2002 (paper no. 11) have been **approved**. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance. 

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Claim Rejections - 35 USC § 112

4. Claims 1-62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3, structural cooperation is not positively set forth for “latch assembly”, particularly with respect to the hopper and the lid; lines 7-8 are vague and indefinite since sufficient structure has not been set forth to perform the recited function of driving the press plate; in line 9, the recitation “automatically activates” is vague and indefinite since sufficient structure has not been set forth to perform such a function. ←

In claim 16, line 2, the recitation “automatically activates” is vague and indefinite since sufficient structure has not been set forth to perform such a function. ←

In claim 18, line 3, structural cooperation is not positively set forth for “latch assembly”, particularly with respect to the hopper and the lid; lines 7-8 are vague and indefinite since sufficient structure has not been set forth to perform the recited function of driving the press plate; in line 9, the recitation “automatically deactivates” is vague and indefinite since sufficient structure has not been set forth to perform such a function. ←

In claim 34, line 2, structural cooperation has not been positively set forth for “an actuating mechanism”, particularly with respect to the press plate; in line 3, the recitation “automatically deactivated” is vague and indefinite since sufficient structure has not been set forth to perform such a function. ←

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In claim 39, lines 9-10 are vague and indefinite since sufficient structure has not been set forth to perform the recited function of driving the press plate; in line 11, the recitation “automatically activates” is vague and indefinite since sufficient structure has not been set forth to perform such a function. ↩

In claim 48, line 2, the recitation “automatically deactivates” is vague and indefinite since sufficient structure has not been set forth to perform such a function. ↩

In claim 50, lines 9-10 are vague and indefinite since sufficient structure has not been set forth to perform the recited function of driving the press plate; in line 11, the recitation “automatically deactivates” is vague and indefinite since sufficient structure has not been set forth to perform such a function. ↩

In claim 60, line 2, structural cooperation has not been positively set forth for “an actuating mechanism”, particularly with respect to the press plate; in line 3, the recitation “automatically deactivated” is vague and indefinite since sufficient structure has not been set forth to perform such a function. ↩

In claim 61, lines 8-9 are vague and indefinite since sufficient structure has not been set forth to perform the recited function of driving the press plate; in line 10, the recitation “automatically activates” is vague and indefinite since it does not appear that sufficient structure has not been set forth to perform such a function. ↩

In claim 62, lines 8-9 are vague and indefinite since sufficient structure has not been set forth to perform the recited function of driving the press plate; in line 10, the recitation ↩

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“automatically deactivates” is vague and indefinite since it does not appear that sufficient structure has not been set forth to perform such a function.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 18, 39, 50, 61 and 62, as understood, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Simon, pn 1,896,564.

Claim Rejections - 35 USC § 102/103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-17, 19-38, 40-49 and 51-60, as understood, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Simon, pn 1,896,564.

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The features set forth in dependent claims 2-17, 19-38, 40-49 and 51-60 are either taught or considered obvious in view of Simon, particularly since the features claimed thereby are not considered to distinguish the claimed invention over the prior art based on applicant's statement on page 4, lines 24-25 of the Petition filed October 21, 2002:

“Applicant submits that the features of the dependent claims in the groups are not required for patentability.”

Therefore, based on applicant's admission, the features claimed in these dependent claims cannot be considered to distinguish the claimed invention over the prior art and are considered to be non-critical and thus obvious in view of the prior art.

Response to Arguments

9. Applicant's arguments filed October 21, 2002 have been fully considered but they are not persuasive.

Regarding the rejections under 35 USC 112, 2nd paragraph, it is respectfully submitted that the Examiner is at a loss in trying to ascertain what structure is being implied to the various features described using the phrases beginning with “adapted to” and “configured to.” Applicant merely argues that “the language rejected by the Examiner is definite functional language.” Therefore, the respective rejections have been withdrawn, and the phrases are being treated merely as functional recitations which do not imply any structure; in other words, each of these instances is being read as “for” performing the respective function (e.g., in claim 1, line 3,

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“adapted to maintain” is being read as “for maintaining”; in line claim 39, line 4, “configured to interact” is being read as “for interacting”; etc.).

However, the Examiner respectfully disagrees with applicant that the phrases “automatically activates” or “automatically deactivates” are merely functional phrases. Clearly, structure must be present to cause automatic activation or deactivation, and no such structure has been set forth.


Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Tuesday through Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3590; informal/draft papers - (703)305-9835.


Clark F. Dexter
Primary Examiner
Art Unit 3724

cfd
March 20, 2003